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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 9th April, 2021

No. 13/1/9766-HII(2)-2021/4058-A.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 27/2015, dated 22.02.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

RAVI RAJ, S/O SHRI RAJ KUMAR, R/O HOUSE NO. 22-C, SHALIMAR ENCLAVE, VILLAGE DHAKOLI, TEHSIL ZIRAKPUR, DISTRICT SAS NAGAR MOHALI, PUNJAB (Workman)

AND

TRIBUNE TRUST, SECTOR 29-C, CHANDIGARH THROUGH ITS GENERAL MANAGER (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in brief is that he was employed with the management *vide* Code No.R-277 and had been working in the organization since 2005 and after completion of 1500 days / 5 years of his service as daily wage employee, he was offered appointment of contractual employee on contract initially for three years and accordingly, on 28.02.2011 appointment letter was issued to him as Daftri with the organization. He had been performing his duties with sincerity and dedication. He never indulged himself in any kind of anti-management activities but because of change of in the hierarchy / top level management, a man namely Shri Sanjay Hazare was appointed as General Manager who bent upon breaking the long established tradition of the Tribune Trust by adopting unfair trade practice and discriminatory choose policy, which is the result of termination of the workman without giving any opportunity of being heard. As per the earlier practice, inquiries were conducted by the official of the Tribune Trust as per standing orders approved by the union as well as management but the then new appointed General Manager with *mala fide* intentions appointed various persons to conduct unfair inquiries and when the workman demanded that he may also be allowed services of a lawyer / advocate, the same was denied by the management. The appointment of an Advocate for conducting departmental inquiries is a clear cut violations of the standing order of the Tribune Trust as well as statutory laws framed time to time by the legislatures. Due to anarchism and dictatorship of the then General Manager, none of any employee was ready to become co-worker in the departmental inquiry as

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the management on earlier occasion, had suspended an office bearer of the union Shri Sandeep Sharma - Joint Secretary of the Tribune Employee Union, who stood as co-worker in one of the such inquiry. In the year 2009, a complaint under Section 25-U read with Section 34 of the ID Act for unfair labour practice had been initiated by the workers' union of the Tribune Trust besides other complaints, the complaint regarding victimization of Shri Sanjeev Sharma for fighting an official case of Shri Ram Krishan is also the subject matter of the complaint. Upon complaint, a fact finding inquiry was initiated and inquiry report was submitted by the Inquiry Officer-cum-Additional Deputy Commissioner, Union Territory Chandigarh with the Chandigarh Administration and recommended for prosecution of the then General Manager Shri Sanjay Hazari being having indulged in unfair labour practice as contained in 5th Schedule of the ID Act. The General Manager had passed the dismissal order of the workman dated 10.10.2013 on the basis of inquiries, which clearly establish that the workman had not given any opportunity to defend himself and was not allowed to cross-examine the witness of the management and while passing the order of termination dated 10.10.2013, the officiating General Manager did not consider the documents / leave applications which were given from time to time for grant of leave and had even did not specified on what account the leave applications are not justifiable. The management had rejected all the explanations and objections and appeals of the workman. The entire inquiry had been conducted in clear violation of standing order and against the principles of natural justice. The workman was also not granted opportunity to examine his own witnesses in his defence. Though the workman is an literate person but does not familiar with the procedure and veracities of law and the entire inquiry proceedings were initiated by an Advocate in Court language and in English in an fluent manner and all the correspondence and inquiry regarding the charge sheets are in English which were deliberately written in English language by the management, which is well know fact that the workman was not conversant with the English language so the charge sheet leveled and other legal facts were not clear to him. As per standing order, the capital punishment of termination of services of the workman does not fall under the competency of the Inquiry Officer as well as the then General Manager. Before passing of order of termination of service gravity of misconduct was not considered. The management may as its discretion given the workman following punishment in lieu of dismissal :—

- (i) Censure or warning
- (ii) Suspension without paying for a period not exceeding 4 days
- (iii) Withholding of scale increment, reduce salary or demotion

Shri Vinay Verma, the present General Manager, joined the organization in the year 2001 and from December 2003 to October 2004, he remained on leave without pay and in the month of May, 2005, he was given promotion and incentives and in the year September 2006 he was promoted as DGM whereas he remained un-authorized absent from the duties more than one year without any reasons and since he is in hierarchy of the management had been rewarded with eight increments and two promotions. Further he was also given incentives of more than ₹ 2.00 lacs which is a discriminatory and unfounded anarchism of the management. The charge of habitual absenteeism is wrong against the workman and penalty imposed of termination of services is like a capital punishment given to a person who is only the bread winner of the family. The workman was neither been paid salary nor has been given any benefit of services for the alleged absence from the duty and now had been dismissed from service on the ground of said absence as such he had been punished twice for a single offence, which amounts to double jeopardy. The workman never remained absent from duty as and when he had not reported to duty, he had forwarded prior leave applications from time to time. There are some cuttings on those leave applications, earlier the same were granted and later on the same were rejected without pay. The leave applications were forwarded with prior intimation to the concerned Head of the department thereafter the same were forwarded to the management in hierarchy. Copies of leave applications are part and parcel of the inquiry conducted. The management has adopted pick & choose policy while passing such harsh orders of the termination. There are so many example which is very well in the knowledge of the management regarding giving benefits to even those employees, who also falls in the same class and categories and remained many a times absent from duties. From the same department, after the change of hierarchy in the year 2012, Shri Ved Pal, Shri Akshay, Shri Deepak Aggarwal, Shri Deepak Tiwari and Shri Phool Chand, the employee of the Tribune Trust, who were working as Daftri were regularised after the termination of the workman and the case of some of the workers are still pending. Due to discriminatory

anarchism of the General Manager Shri Sanjay Hazari, the union had submitted various complaints against the said Manager under Section 25-U and 34 of the ID Act. The Additional Deputy Commissioner, Union Territory Chandigarh has taken cognizance and conducted the inquiry and recommended for prosecution of Shri Sanjay Hazari - General Manager of the Tribune Trust. Due to pressure of the union and cognizance taken by the Additional Deputy Commissioner, Shri Sanjay Hazari resigned from the services. The work of the workman still exists and junior to the employees are still working with the management. On 22.12.2014 the workman raised a dispute and served a demand notice under Section 2 of the ID Act. The management appeared before the Assistant Labour Commissioner, submitted parawise comment but since the management is not inclined to reinstate the workman so the Assistant Labour Commissioner advised the workman to approach this Court for addressing his grievances. The management had not supplied the copies of the inquiry reports along with dissent note on charge connected material relied upon as well as standing order etc. to the applicant before the issuance of any show cause notice, the documents on which the statement of witnesses were recorded are also not shown to the workman. The request for personal hearing of the workman before terminating him from service was not allowed and enquiry report had been accepted without hearing the workman. Impugned order of the termination of services of the workman is in violation of principles of natural justice. The workman suffer prejudice due to non-supply of complete inquiry report along with connected material relied upon. Termination order is violation of provisions of Section 25 of the ID Act. Since the workman was employee of Tribune Trust, enquiry was initiated and conducted at Chandigarh in the office of the Tribune Trust so this Court has got territorial jurisdiction to try, entertain and decide the present matter. Ultimately, it is prayed that dismissal order dated 28.02.2011 be set aside and the workman be reinstated with full back wages and all service benefits along with interest from the date of his termination till its realization.

3. The management contested the case of the workman and filed written statement that the workman was appointed as Daftri *vide* appointment letter dated 28.02.2011 on contract basis for a period of three years. It is the prerogative of the management to appoint either its officer or any other independent person as Inquiry Officer in the interest of natural justice and conducting a fair inquiry. The management appointed Shri Bipan Sharma - Advocate, who is an independent person as Inquiry Officer to conduct inquiry into the allegations leveled against the workman in the charge sheet dated 30.01.2013. The complaint of unfair labour practice against the then General Manager was ultimately withdrawn by the workmen so the same has no relevance in this matter. The Inquiry Officer conducted the inquiry in a fair & proper manner and gave full opportunity to the workman to prove his innocence and submitted his report. The disciplinary authority after going through the whole record of the case i.e. charge sheet, reply to charge sheet, inquiry proceedings, statement of witnesses, documents, inquiry report, show cause notice, reply to show cause notice and applying his mind dispassionately passed the punishment order which is legal, just, proper and in accordance with the standing orders and law. The workman was given full opportunity to prove his innocence and cross-examination of the management witnesses but he did not cross-examine the management witness. During the course of inquiry proceedings, the workman did not raise any objection regarding conducting inquiry in English. The action has been taken after holding a fair & proper inquiry into the charges leveled against the workman. The punishment is quite commensurate with the gravity of the misconduct committed by the workman. No principle of natural justice and standing order has been violated by the management. The case of the workman has no similarity or connection with the case of the present General Manager Shri Vinay Verma. No discrimination has been done against the workman. The punishment has been awarded to the workman after taking into consideration all the facts of the case and affording full opportunity to the workman to prove his innocence. No pick & choose policy has been adopted by the management while passing the punishment order. Every case has its different facts, merits, demerits and circumstances on the basis of which it is decided. No provision of the ID Act has been violated by the management. There is no question of retaining junior employee as the workman indulged in serious acts of misconduct for which he was chargesheeted and punishment was awarded. The workman raised the dispute before the Assistant Labour Commissioner-cum-Conciliation Officer, Union Territory, Chandigarh. The management had filed its reply. After hearing both the parties, conciliation proceedings held by the Assistant Labour Commissioner were ended in failure report. After the receipt of the inquiry report, a memorandum dated 28.08.2013 was issued to the workman and a copy of the inquiry report was sent to him for his comments. The workman submitted his reply dated 31.08.2013 to the memorandum dated 28.08.2013 which was considered and found unsatisfactory as his reply was against the facts on record

as these were never intimated by the workman before or during the course of inquiry proceedings. His leave applications ever indicated any such reasons. The workman had never requested for personal hearing so question of denying opportunity of personal hearing does not arise. Termination of order has not been passed in violation of the provisions of Section 25 of the ID Act. The same has been passed after taking into consideration the whole record of the case and by applying mind dispassionately by the disciplinary authority. No provision of natural justice has been violated by the management. No prejudice has been caused to the workman. Other averments of the case of the workman were denied and ultimately, it is prayed that claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman examined Shri Arun Kumar - Clerk, Office of the Assistant Labour Commissioner, Union Territory Chandigarh as AW1. The workman also examined himself as AW2. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1 and Shri Bipan Sharma - Inquiry Officer as MW2. Learned representative for the workman closed the evidence.

6. I have heard the learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No. 1 :

7. Onus to prove this issue was on the workman and to discharge the same, the workman examined Shri Arun Kumar - Clerk, office of the Assistant Labour Commissioner, Union Territory Chandigarh as AW1, who deposed that he had brought the summoned record pertaining to the complaint under Section 25-U read with Section 34 of the ID Act regarding unfair labour practice against Shri Sanjay Hazari - General Manager of the Tribune Trust. He proved the attested copy of the same is Exhibit 'AW1/1'. He further proved attested copy of the inquiry report submitted by the Additional Deputy Commissioner, Union Territory Chandigarh as Exhibit 'AW1/2'.

8. The workman also stepped into the witness box as AW2 and deposed that he was employed with the management *vide* code No.R-277 as Daftri initially for three years *vide* appointment letter dated 28.02.2011 Exhibit 'A1'. He never indulged himself in any kind of anti-management activities as change in hierarchy / top level management, a man namely Shri Sanjay Hazare was appointed as General Manager, who bent upon breaking the long established tradition of the Tribune Trust by adopting unfair trade practice and discriminatory choose policy, which is the result of termination of himself without giving any opportunity of being heard. He further deposed that as per earlier practice inquiries were conducted by the officials of the Tribune Trust as per standing order approved by the union as well as management but the then new appointed General Manager with *mala fide* intention appointed various lawyers to conduct unfair inquiries and when he demanded the service of lawyer/Advocate the same were denied by the management. The appointment of an Advocate for conducting departmental inquiries is a clear cut violations of the standing order of the Tribune Trust as well as statutory laws framed from time to time. He also deposed that due to anarchism and dictatorship of the then General Manager, none of any employee was ready to become co-worker in the department inquiry as the management on an earlier occasion had suspended an officer bearer of the Union namely Shri Sandeep Sharma - Joint Secretary of the Tribune Employee Union, who stood as co-worker in one of the such inquiry. In the year 2009 a complaint under Section 25-U read with Section 34 of the ID Act for unfair labour practice had been initiated by the workers' union of the Tribune Trust besides other complaints, the complaint regarding victimization of Shri Sanjeev Sharma for fighting an official case of Shri Ram Krishan is also the subject matter of the complaint. He proved the copy of the complaint as Exhibit 'A2'. Under the complaint, a fact finding inquiry was initiated and inquiry report was submitted by the Inquiry Officer-cum-Additional Deputy Commissioner, Union Territory, Chandigarh recommending prosecution of the then General Manager Shri Sanjay Hazari being having indulged in unfair labour practice. He proved the copy of inquiry report as

Exhibit 'A3'. He further deposed that he was not given any opportunity to defend himself and was not allowed to cross-examine the witness of the management and while passing orders of termination dated 10.10.2013, the officiating General Manager did not consider the documents / leave applications given from time to time. The management had rejected all the explanation and objections and appeal of himself. Though he is an literate person but does not familiar with the procedure and veracities of law and the entire inquiry proceedings were initiated by an Advocate in the Court language and in English in an fluent manner and all the correspondence and inquiry regarding the charges sheets are in English which were deliberately written in English language, knowing the fact that he is not conversant with the English language. As per the standing orders, the grant of capital punishment of termination of services does not falls under the competency of the Inquiry Officer as well as the General Manager. The management may as its discretion give the workman punishment of censure or warning, suspension without pay for a period not exceeding 4 days, withholding scale increment, reduce salary or demote. Shri Vinay Verma, the present General Manager joined the organization in the year 2001 and from December 2003 to October 2004 he remained on leave without pay and in the month of May 2005 he was given promotion and incentives and in the year September 2006, he was promoted as DGM whereas himself remained on unauthorised absent from the duties for more than one year without any reasons. He further deposed that he was neither paid salary nor has been given any benefit of service for alleged absence so he had been punished twice for a single offence. There are some cuttings on the leave applications, earlier the same were granted and later on the same were rejected without pay. After the change of hierarchy in the year 2012 Shri Ved Pal, Shri Askshay, Shri Deepak Aggarwal, Shri Deepak Tiwari and Shri Phool Chand, the of the same department, who were working as Daftri were regularised after the termination of himself. The union had submitted various complaints against Shri Sanjay Hazari under Section 25-U and 34 of the ID Act for unfair labour practice, upon which the Additional Deputy Commissioner initiated the inquiry and recommended prosecution for Shri Sanjay Hazari. He also deposed that work of the workman still exists and junior employees to himself are still working with the management. On 22.12.2014 he raised a dispute and served a demand notice under Section 2 of the ID Act, the management appeared before the Assistant Labour Commissioner and submitted their reply but they were not inclined to reinstate him so the Assistant Labour Commissioner advised to approach this Court. He proved demand notice along with postal receipt dated 22.12.2014, reply dated 24.02.2015 and advise / relegation order dated 17.02.2015 passed by the Assistant Labour Commissioner as Exhibit 'A4' to 'A6'. He further deposed that the management had not supplied the copies of inquiry reports along with dissent note on charge connected material reply upon as well as standing order etc. to him before issuance of any show cause notice, the documents on which the statement of witnesses were record are also not shown to him. The request for personal hearing of himself before terminating him from the service is not allowed. Impugned order is in violation of principles of natural justice and provisions of Section 25-F of the ID Act.

9. Learned representative for the workman has argued that the services of the workman were terminated illegally by the management as the alleged inquiry has not been conducted as per the standing orders. The workman was never informed by the Inquiry Officer about his right to engage his co-worker to defend the case. No body was ready to become co-worker during the domestic inquiry due to the fear in mind of victimization and harassment by the management. He further argued that the Inquiry Officer should have been appointed employee of the Tribune Trust and not an Advocate. All the correspondence were made in English and the workman was not conversant with the same. No effective opportunity was given to the workman during the inquiry proceedings and the Inquiry Officer did not consider the medical record hence the inquiry has been conducted against the principles of natural justice and the services of the workman has been terminated by the management with pre-determined and bias mind. The punishment of termination of service is harsh as the work & conduct of the workman remained satisfactory and he worked with utmost dedication and sincerity. Learned representative for the workman relied upon authority Sec. to Govt. Information Pub. **Rel. Dep. & Others Versus John Maria Jesudoss, 2015(1) Law Herald (SC) 236; Rajasthan Tourism Development Corporation Limited & Another Versus Jai Raj Singh Chauhan, 2011(13) SCC 541 (SC); R. L. Chhokar Versus State of Haryana, 2001(3) SCT 156 (P&H)(DB) and Harbans Singh Versus The Presiding Officer & Others, CWP No.11532 of 2013 (O&M) decided on 04.12.2014 by Hon'ble Punjab & Haryana High Court.** He prayed for allowing of the present industrial dispute and reinstatement of the workman with continuity of service and full back wages.

10. On the other hand, learned representative for the management has examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1, who deposed that the action has been taken after holding a fair & proper inquiry by giving full opportunity to the workman. The workman was found absent from duties with effect from 13.12.2012 for which he was issued letter dated 26.12.2012 to join his duties along with explanation for his absence. The workman filed reply dated 29.12.2012 along with medical certificate stating that he remained absent due to illness but the medical certificate show that the workman was advised rest only from 28.11.2012 to 12.12.2012 and not thereafter and nature of ailment mentioned therein also indicate that he was unable to intimate about his illness to the office so his reply was found to be unsatisfactory. Further the service of the workman also revealed that he had remained unauthorisedly absent from his duties for 120 days with effect from 01.01.2012 to 02.01.2013 for which he was charge sheeted *vide* charge sheet dated 30.01.2013. Consequent upon appointment of the Inquiry Officer, Shri Bipan Sharma issued notice to the parties for conducting inquiry proceedings. The charge sheet was read over to the workman and he was asked if he intended to have the help of a co-worker and defence assistant. The workman replied that he would disclose the name of his defence assistant later on. List of documents and witnesses were supplied to the workman. Shri Parveen Verma and Shri Manav Bhasin was examined by the management but the workman failed to cross-examine him despite opportunities. In evidence of the workman his statement was recorded. After conclusion of inquiry proceedings the Inquiry Officer submitted his inquiry report. Thereafter copy of inquiry report was sent to the workman, to which the workman filed reply. The same was considered and found unsatisfactory. Thereafter the disciplinary authority issue a show cause notice to the workman as to why his contract of appointment be terminated. The workman submitted his reply wherein he instead of explaining his position raised another point to the effect that he was never informed by the Inquiry Officer about his right to engage his co-worker. The disciplinary authority after going through the whole record of the case and applying its mind dispassionately did not find any reason to alter its tentative decision to terminate the contract of the workman with immediate effect. A cheque of ₹ 7,500/- in lieu of notice period was sent to the workman. Complete record in this regard is Annexure 'R1'. He further deposed that the management appointed Shri Bipan Sharma - Advocate, who is an independent person as Inquiry Officer and there is no anarchism and dictatorship of the then General Manager of the management. During the course of inquiry proceedings the workman did not raise any objection regarding conducting inquiry in English as such is afterthought. The punishment is quite commensurate with the gravity of misconduct committed by the workman. The case of the workman has no similarity or connection with the case of the then General Manager Shri Vinay Verma.

11. Further the management examined Shri Bipan Sharma - Inquiry Officer as MW2, who deposed that he was appointed as Inquiry Officer *vide* letter dated 30.01.2013 to enquire into the charges leveled in charge sheet dated 30.01.2013 served upon the workman. He had issued notice to the workman to appear before him. The workman appeared before him and attended the inquiry proceedings throughout. He gave due opportunity to workman to defend his case during the inquiry proceedings. The procedure of inquiry was explained to him and charges were read over to him. Copy of list of witnesses and documents submitted by the Presenting Officer was supplied to the workman. The Presenting Officer produced two witnesses namely Shri Parveen Verma - Sectional Head, HR Department and Shri Manav Bhasin - Deputy Manager - Circulation (Operations), The Tribune Trust. Statements of the witnesses were recorded in the presence of the workman and opportunity of cross-examination to the witnesses was given but the workman did not cross-examine both the management's witness. After completion of the evidence of the management, the workman was given opportunity to defend himself and to submit his defence statement and documents. The workman got recorded his defence statement on 14.08.2013. Copy of day to day inquiry proceedings was provided to the workman. He further deposed that the workman held a fair & proper inquiry after thoroughly examining the statement of prosecution witnesses and defence witness and also taking into consideration on record produced before him during the course of inquiry proceedings and submitted his inquiry report. Copy of inquiry proceedings, inquiry report and relevant documents is Annexure 'M1'.

12. Learned representative for the management has argued that the present reference is without any cause of action and not maintainable. The workman remained absent from duty from time to time from 01.01.2012 to 02.01.2013, the total 120 days. He remained absent from duty and have become habitual absentee, which is an act of mis-conduct under the standing orders. He was charge sheeted for the same and thereafter the workman submitted his reply to the charge sheet, which was found unsatisfactory. He further argued that the workman attended inquiry proceedings and he was given full opportunities to cross-examination management's witness but he did not cross-examine them and after conclusion of the evidence of

both the parties, the Inquiry Officer submitted his inquiry report proving charges against the workman and the disciplinary authority after considering the entire record, evidence, witnesses, inquiry proceedings issued the show cause notice and consequently punishment of termination of the contract was awarded with payment of one month's notice pay in lieu of notice. He argued that a fair & proper inquiry has been conducted. MW2, the Inquiry Officer had duly proved the inquiry documents. Learned representative for the management relied upon authority **Shakuntla Devi Versus M/s Dynamic Fashion Pvt. Ltd. & Others, 2019 LLR 616 (P&H)** and prayed for dismissal of the present industrial dispute.

13. After giving my careful consideration to the rival contentions of both the parties, admittedly, the workman was appointed as Daftri with Tribune Trust in the year 2011 on contract for a period of three years and there were charges against the workman that he remained absent for about 120 days during the period from 01.01.2012 to 02.01.2013. The plea taken by the workman that nobody is ready to become co-worker with the fear of victimization and harassment does not hold good as the workman has failed to produce any evidence with regard to harassment and victimization against him. Further it is the stand of the workman that the workman was never informed by the Inquiry Officer about his right to engage his co-worker to defend the case but perusal of preliminary statement of the workman recorded during inquiry proceedings dated 18.02.2013 at page 112 of inquiry file Exhibit 'MW1/1' reveals that the workman was offered assistance of any co-worker by the Inquiry Officer but the workman submitted that the name of the co-worker will be disclosed later. There is nothing on the file that thereafter the workman had ever written to the Inquiry Officer for providing the assistance of co-worker of any his choice.

14. As regard termination of the workman is concerned, after perusal of oral as well as documentary evidence on record it is crystal clear that the workman guilty of misconduct for which he was served with charge sheet on 30.01.2013 for remaining absent from duty unauthorisedly. Shri Bipan Sharma - Advocate was appointed as Inquiry Officer, who issued notice to the workman to appear and the workman attended the inquiry proceedings. The charge sheet was read over to the workman and submitted that he will disclose the name of his defence assistant later on. List of documents and list of witnesses were supplied to the workman. The workman was given opportunities to cross-examine the management's witness, which he did not cross-examine them. The workman gave his defence statement. After conclusion of evidence of both the parties and after consideration of all the relevant record, the Inquiry Officer submitted his report dated 19.08.2013. Copy of the inquiry report was supplied to the workman for his comments. The workman submitted his reply, which was considered and found unsatisfactory being against the facts on record as the same was never intimated by the workman during the course of inquiry proceedings. Then the disciplinary authority after applying his mind issued show cause notice dated 10.10.2013. The workman submitted his reply raising another point to the effect that he was never informed by the Inquiry Officer about his right to engage his co-worker to defend his case. After considering the whole record punishment of termination was awarded to the workman.

15. Moreover, after perusal of the cross-examination of AW1 it reveals that he himself admitted that it is correct that Mr. Bipin Sharma was appointed Inquiry Officer and he remained present first time on dated 18.02.2013. He further admitted that it is correct that he appeared in the inquiry on 20.03.2013 which bears his signature and in inquiry conducted on dated 03.05.2013 also bears his signature which is conducted in his presence. He also admitted that it is correct that inquiry dated 30.07.2013, 14.08.2013 also conducted in his presence which also bears his signatures. He stated that he was supplied copy of inquiry report and he filed reply. Perusal of the inquiry file reveals that on 20.03.2013 first witness of the management Shri Parveen Verma - Sectional Head was examined and his cross-examination was deferred on request of the workman. On 03.05.2013 the workman made the statement that he did not want to cross-examine Shri Parveen Verma. Further on 30.07.2013 another witness of the management Shri Manav Bhasin - Deputy Manager (Circulation Operations) was examined. Opportunity to cross-examine the witness was given to the workman but the workman did not cross-examine the witness. On 14.08.2013 the workman gave his defence statement and closed his evidence by stating that he did not want to produce any other witness or proof in his defence. In the light of discussion made above and admission of the workman during the cross-examination conducted before this Court, it is proved on record that a fair & proper inquiry has been conducted by the management and full & fair opportunity was granted to the workman to defend his case. There is no illegality in the inquiry conducted against the workman.

16. It is the stand of the workman that he had moved an application for his absence from time to time but in this regard also cross-examination of the workman as AW2 is very important wherein he stated that he had moved an application for his unauthorised absence for 120 days from 01.01.2012 to 02.01.2013 but they did not considered. He further stated that he cannot tell the dates on which he moved the application for leaves. He admitted that it is correct that with effect from 13.12.2012 he remained on unauthorised absent.

17. Another arguments of the workman is that the punishment of termination of service awarded to him is harsh but this argument does inspire the confidence as admittedly there are charges against the workman for unauthorized absence and as per standing orders applicable to the workman, unauthorized absence and habitual absenteeism are serious acts of misconduct and the charges against the workman were duly proved in the departmental inquiry. In citation **Shakuntla Devi Versus M/s Dynamic Fashion Private Limited & Others (supra)** wherein the petitioner was disobedient and habitual of remaining unauthorisedly absent, she was issued charge sheet and inquiry was conducted wherein she was held guilty of charges and she was issued show cause notice but she did not file reply, it was held by the Hon'ble Punjab & Haryana High Court that the petitioner did not point out any illegality with the impugned award and it was not her case that evidence on record has been wrongly appreciated. Disobedience and habitual of remaining unauthorisedly absent is a grave and serious misconduct causing indiscipline at the work place. Punishment of termination is justified and not disproportionate. In the present case in hand, the workman is also habitual of remaining unauthorised absent so the punishment of termination is not harsh.

18. Next arguments of learned representative for the workman is that the Inquiry Officer appointed by the management was an Advocate but this argument also does not inspire confidence as there is no bar for the Lawyer to conduct inquiry on behalf of the management. The law is settled in citation **E. R. Sankaran Versus Mettur Government Servants Co-operative Stores Limited, 2001(1) CLR 716 (Madras) (DB)** in which it is clearly held that in the absence of any special individual bias, no fault can be found with the appointment of a lawyer as an Inquiry Officer in a domestic inquiry. Further in citation **Indian Express Employees Union Versus Management of Indian Express Newspaper, 1998(3) SCT 606 (P&H)** in which it is held that unless an apparent prejudice is caused to the workman on account of not following the procedure or not providing an adequate opportunity, inquiry proceedings cannot be held vitiated on the appointment of an Advocate by the management for holding inquiry against the workman. In the present case in hand, firstly throughout the inquiry proceedings no objection was raised by the workman with regard to the appointment of Advocate as an Inquiry Officer. Secondly, the workman has failed to prove on record before this Court that the Inquiry Officer is a biased or any prejudice has been caused to him on account of not following the procedure or by not providing adequate opportunity to the workman.

19. Argument of learned representative for the workman that all the inquiry proceedings were held in English, to which the workman was not well conversant, also does not inspire confidence as during the inquiry proceedings the workman never moved any application for conducting the inquiry proceedings in Hindi or any other language conversant to him. Further perusal of the inquiry file reveals that during the inquiry proceedings the workman himself communicating in English.

20. In the light of discussion made above, the workman has failed to prove that a fair & proper inquiry was not conducted by the management and no full & fair opportunity was granted to the workman before dismissing him from service so there is no illegality in the termination order passed by the management. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

21. In the light of findings on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . .,

The 22nd February 2021.

(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 9th April, 2021

No. 13/1/9767-HII(2)-2021/4059-A.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 12/2015, dated 22.02.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

AKHILESH PANDEY S/O SHRI GHANSHYAM PANDEY, R/O HOUSE NO. 3050, TRIBUNE COLONY, SECTOR 29-B, CHANDIGARH (Workman)

AND

1. TRIBUNE TRUST, SECTOR 29-C, CHANDIGARH THROUGH ITS GENERAL MANAGER.
2. GENERAL MANAGER, THE TRIBUNE TRUST, SECTOR 29-C, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in brief is that he was appointed as Helper with the Tribune Trust, Chandigarh in the year 1995. Work & conduct of the workman remained satisfactory during the period. He served the Tribune Trust with utmost devotion and sincerity and there was no complaint of any type against him. Due to the good work & conduct of the workman he was promoted as Reloader. Only complaint against the workman was that he remained absent for about 144 days during the calendar year 2005-06 i.e. upto 30.06.2006 as he remained under treatment and for that various written requests were made and even medical certificate was also furnished about his health. The father of the workman was also an employee of the Tribune Trust and remained active trade union leader for the last 25 years. He remained an officer bearer for four years and an executive member for six years. The trust is against the union activities and is trying to break the union and victimize and harass the trade union leaders by one way or other. Since Shri Sanjay Hazari - General Manager joined the organization, he started victimizing the employees and few cases against the Tribune management are pending in different courts. No body was ready to become a co-worker in the domestic inquiries and even if someone agreed, he had fear in mind of victimization and harassment as the management had already suspended an officer bearer of the union Shri Sandeep Sharma, who was co-worker in a domestic inquiry in the case of Shri Radhey Sham, as he argued at some points. The Inquiry against the workman was conducted by Shri P. S. Bansal - Advocate and the workman was afforded any permission to engage an Advocate to defend the illegal inquiry ordered against him. Despite all these things, the workman fairly attended the inquiry and produced evidence showing his inability to attend office on medical grounds and even produced the medical certificate but none were considered by the Inquiry Officer. Apart from this, the father of the workman appeared as witness in an inquiry conducted against one Shri Ram Kishan, employee of the Tribune Trust. As per Rule 10 of the Standing Orders for Press Workmen of the Tribune Establishment, if a person is habitual absent without leave or habitual overstaying the leave, then in that case, the management give the workman following punishment in lieu of dismissal :—

- (a) Censure or warning;
- (b) Suspension without pay for a period not exceeding 4 days;
- (c) Withhold his scale increment, reduce his salary or demote him.

There is no provision of appointing a Lawyer in domestic inquiries as per Standing order of the Tribune Trust and domestic inquiries are to be conducted by an officer of the Trust. Shri Vinay Verma - DGM remained absent for a long period without any reason but he was allowed to join duties and eight increments were given to him and even two promotions were also given to him including incentives. One Mr. Verma - Marketing Manager with the Tribune Trust remained absent for a long period but he was allowed to join the Tribune Trust and was given all financial benefits including huge incentives. Apart from this, there are other examples also in which employees remained absent without any reasons but were allowed to join the duties and were given all the benefits whereas in the present case, step motherly treatment was given to the workman. The Inquiry Officer should have been appointed employee of Tribune Trust and not an Advocate. The workman was not permitted to engage an Advocate to defend the inquiry. All the correspondence of the inquiry was made in English language which the workman is not well versed with. The inquiry so conducted by the Advocate is totally against rules, illegal, perverse, against the principles of natural justice and without jurisdiction and the dismissal order passed on the basis of that inquiry cannot be sustained in the eyes of law. The services of the workman were terminated by the trust with a predetermined and biased mind. The workman has been dismissed / terminated from service of the management illegally, arbitrarily with *mala fide* intention, without complying with the provisions of law. The alleged inquiry has not been conducted in accordance with the provisions of law and the Standing Orders applicable and is totally shame and farce. No effective opportunity of hearing was granted to the workman and the alleged inquiry was conducted with a pre-determined mind to hold the workman guilty of charges and to consequently dismiss him from service. No permission of the State Government has been obtained as required under Section 25-N of the ID Act. The management had also failed to comply with the provisions of Rule 75 of the Industrial Disputes (General) Rules, 1958 and there are clear violations of the provisions of The Working Journalists & Other Newspaper Employees (Conditions of Service) & Miscellaneous Provisions Act, 1955. Termination of the workman is also illegal as no approval or permission was obtained by the management under the provisions of Section 33 of the ID Act as admittedly an industrial dispute was pending adjudication which concerned the workman as well. The workman is a regular employee of the management and had completed continuous service of 240 days. He is not gainfully employed from the date of his termination despite best efforts he is not able to find a job till date. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the present industrial dispute deserves to be dismissed on the ground of principles of *res judicata* as the workman had filed a civil suit before the Civil Judge, Junior Division, Chandigarh for declaring dismissal order dated 11.10.2007, domestic inquiry order dated 28.11.2006 and all other proceedings conducted as null & void being without jurisdiction and prayed for mandatory injunction directing the defendant-management to reinstate him with all consequential benefits, which was dismissed. Thereafter he filed appeal, which was also dismissed as withdrawn by the Hon'ble Appellate Court. On merits, it is pleaded that the workman was appointed as Reel Loader / Unloader and was promoted as Helper. Work & conduct of the workman was not satisfactory and he was subjected to disciplinary action number of times. He had indulged in misconduct of remaining unauthorisedly absent from duty since 2004 till the date of his dismissal order. One of the charges leveled against him that he remained unauthorisedly absent from duty without any intimation or prior permission of the competent authority. He had not submitted any leave application for his absence from duty at any point of time for which he was charge sheeted and inquiry was held wherein he was found guilty of the charges leveled against him. The father of the workman was an employee of the Tribune Trust. Shri Sandeep Sharma was placed under suspension as he had indulged in serious acts of misconduct. The action of the management in suspending Shri Sandeep Sharma was according to indulgence. Shri P. S. Bansal - Advocate had conducted the inquiry in a fair & proper manner. The workman was given full opportunity during the course of inquiry proceedings to prove his innocence. He was allowed to be represented by his co-worker of his choice. The workman had himself admitted his guilt before the Inquiry Officer. The management is well within its rights to appoint an Advocate as an Inquiry Officer being an independent and impartial person. Action of the management in appointing an Advocate as Inquiry Officer is legal, just, proper and in accordance with law. Shri Vinay Verma - Deputy General Manager (now General Manager), had applied for long leave which was allowed and after availing the same, he was allowed to join his duty. During the course of inquiry proceedings, the workman was allowed to be assisted by his co-worker of his choice but the workman did not demand or

ask for to engage an Advocate to defend him in the inquiry and no objection was raised by the workman during the course of inquiry proceedings that his inquiry should be conducted in Hindi language. No principle of natural justice and provision of the Industrial Disputes Act and The Working Journalists & Others Newspaper Employees (Conditions of Service) & Miscellaneous Provisions Act, 1995 has been violated. No permission is required under Section 33 of the ID Act. The workman has been gainfully employed throughout the period. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding officer :—

1. Whether the reference is bad on account of *res judicata* ? OPM
2. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
3. Relief.

5. In support of the case, the workman examined himself as AW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1 and Shri P. S. Bansal - Inquiry Officer as MW2. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No. 1 :

7. Onus to prove this issue was on the management but learned representative for the management has not pressed this issue during the course of arguments. This issue is decided against the management being not pressed.

Issue No. 2 :

8. Onus to prove this issue was on the workman and to discharge the same the workman himself stepped into the witness box as AW1 and deposed that he was appointed as Helper with the Tribune Trust, Chandigarh in the year 1995 *vide* Exhibit 'W1'. Work & conduct of himself was satisfactory and due to which he was promoted as Helper *vide* order dated 17.02.2003 Exhibit 'W2'. He further deposed that he was issued charge sheet dated 18.05.2006 for remaining absent for about 144 days during the calendar year 2005, which was duly replied by himself *vide* reply dated 31.05.2006 Exhibit 'W3'. He was issued another charge sheet dated 23.10.2006 for remaining absent for 53 ½ days during the period from 01.01.2006 to 30.06.2006, which was also replied *vide* reply dated 15.11.2006 Exhibit 'W4'. He deposed that the management with *mala fide* intention without considering the reply filed and medical certificates with predetermined mind to terminate his services appointed an Advocate as Inquiry Officer. The medical record / certificate is Exhibit 'W5'. He further deposed that his father was also an employee of the Tribune Trust and remained active trade union leader for the last 25 years and remained an office bearer for four years and an Executive Member for six years. The trust is against the union activities and is trying to break the union and victimize and harass the trade union leaders by one way or other. Since Shri Sanjay Hazari - General Manager joined the organization, he started victimizing the employees. He also deposed that nobody was ready to become a co-worker in the domestic inquiries and even if someone agreed, he had fear in mind of victimization and harassment as the management had already suspended an office bearer of the union Shri Sandeep Sharma, who was co-worker in a domestic inquiry in the case of Shri Radhey Sham. The inquiry against himself was conducted by Shri P. S. Bansal - Advocate. He was not afforded any permission to engage an Advocate to defend. He produced evidence showing his inability to attend office on medical grounds and produced the medical certificate but the same were not considered by the Inquiry Officer. He further deposed that as per Rule 10 of the Standing Orders for habitual absent without leave or habitual overstaying the leave, the management can award punishment of censure or warning or suspension without pay or withholding of scale increment, reduce salary or demotion. There is no provision of appointing a lawyer in domestic inquiries as per standing orders and the Inquiry Officer should have been appointed employee of the Tribune. All the correspondence of the

inquiry was made in English language to which himself is not well versed with. The alleged inquiry has not been conducted in accordance with the provisions of law and the standing orders applicable. The alleged inquiry was conducted with a pre-determined mind to hold himself guilty of the charges and to consequently dismiss himself from service. Neither any approval nor any permission was obtained by the management under the provisions of Section 33 of the ID Act.

9. Learned representative for the workman has argued that the services of the workman were terminated illegally by the management as the alleged inquiry has not been conducted as per the standing orders. No body was ready to become co-worker during the domestic inquiry due to the fear in mind of victimization and harassment by the management. He further argued that the Inquiry Officer should have been appointed employee of the Tribune Trust and not an Advocate. All the correspondence were made in English and the workman was not conversant with the same. No effective opportunity was given to the workman during the inquiry proceedings and the Inquiry Officer did not consider the medical record hence the inquiry has been conducted against the principles of natural justice and the services of the workman has been terminated by the management with pre-determined and bias mind. The punishment of termination of service is harsh as the work & conduct of the workman remained satisfactory and he worked with utmost dedication and sincerity. Learned representative for the workman relied upon authority **Ran Vijai Singh Versus The State of U. P. through the Principal Secretary Home Department, 2020 Lab. LR 13 and Delhi Transport Corporation Versus Shri Raj Singh, 2009(1) CLR 416 (Delhi)**. He prayed for allowing of the present industrial dispute and reinstatement of the workman with continuity of service and full back wages.

10. On the other hand, the management examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1, who deposed that the action has been taken after holding a fair & proper inquiry into the charges leveled against the workman and giving full opportunity to the workman. The workman was guilty of serious acts of misconduct for which he was served upon with charge sheets dated 18.05.2006 and 23.10.2006 for remaining absent from duty unauthorisedly and without prior intimation to the competent authority. The workman submitted his reply to both charge sheet *vide* his letters dated 31.05.2006 and 15.11.2006, which were considered and found satisfactory by the competent authority. In order to ascertain the truth and enquire into the matter, Shri P. S. Bansal - Advocate was appointed as Inquiry Officer *vide* letter dated 28.11.2006. The workman attended the inquiry proceedings and charges were explained in detail to him. He was allotted to take the assistance of his co-worker. The workman admitted the charges and desired the assistance of his father Shri Ghanshyam Pandey. Statement of management's witness was recorded and the workman was given opportunity to cross-examine the witness but he did not choose to cross-examine the management's witness. The workman requested for adjournment the ground that he could not prepare the defence statement so inquiry proceedings were adjourned. Thereafter the workman submitted his defence statement. After conclusion of evidence of both the parties and by taking into consideration the statement of the witnesses, documents and relevant record, the Inquiry Officer submitted his inquiry report dated 06.02.2007 to the disciplinary authority wherein all the charges leveled against the workman in both the charge sheets were fully proved. Copy of complete inquiry file is Annexure 'R1'. The disciplinary authority after receiving the inquiry report supplied a copy of inquiry report to the workman for his comments *vide* office memo dated 18.05.2007 Annexure 'R2'. The workman did not submit any reply, the disciplinary authority after considering the entire record of the case, statements of witnesses, documents, inquiry proceedings, inquiry report and applying its mind dispassionately issued a show cause notice dated 31.08.2007, Annexure 'R3', as to why extreme punishment of dismissal from service be not awarded to the workman. The workman submitted the reply dated 06.09.2007 Annexure 'R4'. The disciplinary authority after receiving reply of the workman, found the same devoid of any merit, and carefully going through the whole record of the case and apply his mind dispassionately found that the inquiry proceedings were conducted in a fair & proper manner and sufficient opportunity was given to the workman during the course of inquiry proceedings consequently, punishment of dismissal from service was awarded *vide* order dated 11.10.2007, Annexure 'R5', with payment of salary due till date along with one month's salary against notice period.

11. Further the management examined Shri P. S. Bansal - Advocate as MW2, who deposed that he was appointed as Inquiry Officer *vide* letter dated 28.11.2006 to enquire into the charges leveled against the workman *vide* charge sheets dated 18.05.2006 and 23.10.2006. He issued notice of inquiry to the workman to appear before him. The workman attended the inquiry proceedings and charges leveled against the workman were read over to him and asked to admit or deny the same. The workman admitted the charges and desired to have the assistance of his father as co-worker. The Presenting Officer was asked to produce the witness, statement of the witness was recorded and the workman was given an opportunity to cross-examine the witness but the workman did not cross-examine the witness. After completion of evidence of the management, the workman was given due opportunity to defend himself. The workman submitted his defence statement. He further deposed that it was proved on record that the workman remained unauthorisedly absent from duty for 144 days in 2005 and 53.5 days (January to June) in 2006. As per record, he did not submit any leave application for 168.5 days out of 197.5 referred to two charge sheets. The workman also admitted his unauthorized absence. He also deposed that after holding a fair & proper inquiry and applying his mind dispassionately, he submitted his inquiry report dated 06.02.2007 to the disciplinary authority proving all the charges leveled against the workman. Copy of inquiry proceedings, inquiry report dated 06.02.2007 and relevant documents is Annexure 'M-1'.

12. Learned representative for the management has argued that the present reference is without any cause of action and not maintainable. The workman remained absent from duty from time to time from 01.01.2005 to 30.06.2006, the total 197½ days. He remained absent from duty and have become habitual absentee, which is an act of mis-conduct under the standing orders. He was charge sheeted for the same and thereafter the workman submitted his reply to the charge sheet, which was found unsatisfactory. He further argued that the workman attended inquiry proceedings and he was given full opportunities to cross-examination management's witness and after conclusion of the evidence of both the parties, the Inquiry Officer submitted his inquiry report proving charges against the workman and the disciplinary authority after considering the entire record, evidence, witnesses, inquiry proceedings issued the show cause notice and consequently punishment of dismissal of service was awarded with payment of salary due and one month's salary along with one month's notice pay. He argued that a fair & proper inquiry has been conducted. MW2, the Inquiry Officer had duly proved the inquiry documents. He prayed for dismissal of the present industrial dispute.

13. After giving my careful consideration to the rival contentions of both the parties, admittedly, the workman was appointed as Helper with Tribune Trust in the year 1995 and there were charges against the workman that he remained absent for about 144 days during the year 2005 and 53-½ days in the year 2006 upto 30.06.2006. The plea taken by the workman that nobody is ready to become co-worker with the fear of victimization and harassment does not hold good as the workman has failed to produce any evidence with regard to harassment and victimization against him.

14. As regard termination of the workman is concerned, after perusal of oral as well as documentary evidence on record it is crystal clear that the workman guilty of misconduct for which he was served with charge sheet on 18.05.2006 & 23.10.2006 for remaining absent from duty unauthorisedly. The workman submitted his reply to both the charge sheets *vide* his letter dated 31.05.2006 and 15.11.2006 which was considered and found unsatisfactory by the competent authority. Thereafter Shri P. S. Bansal - Advocate was appointed *vide* letter dated 28.11.2006, who issued notice to the workman to appear and the workman attended the inquiry proceedings. The workman was allowed to take assistance of co-worker. The workman admitted the charges and desired the assistance of his father Shri Ghanshyam Pandey during the inquiry proceedings, which was allowed. The workman was given opportunities to cross-examine the management's witness, which did not cross-examine him. The workman gave his defence statement. Copy of inquiry proceedings was given to the workman. After conclusion of evidence of both the parties and after consideration of all the relevant record, the Inquiry Officer submitted his report dated 06.02.2007 to the disciplinary authority wherein all the charges leveled against the workman were duly proved. Copy of the inquiry report was supplied to the workman for his comments but the workman did not submit his reply. Then the disciplinary authority after applying his mind issued show cause notice dated 31.08.2007. The workman was given an opportunity to explain his position before the disciplinary authority, but the reply filed by him to the show cause notice was found devoid of any merits and after receiving reply and after considering the whole record the services of the workman was dismissed from service.

15. Moreover, after perusal of the cross-examination of AW1 it reveals that he himself admitted that it is correct that two charge sheet were issued one for remaining 144 days unauthorized absent in the year 2005 and another for 53.5 days during the period from 01.01.2006 to 30.06.2006. He gave the reply to both the charge sheets separately. He further admitted that it is correct that domestic inquiry was initiated *vide* letter dated 28.11.2006 and made by P. S. Bansal and the charges contained in the charge sheets were explained to him by the Inquiry officer Shri P. S. Bansal on 29.12.2006. It is correct that he asked for assistance of his father Shri Ghan Shyam Pandey, which was allowed by the Inquiry Officer and on 11.01.2007 statement of one witness of the management was recorded in the presence of his defence representative. He further admitted that it is correct that he was allowed to cross-examine the witness of the management and neither he nor his DR asked any question from the witness and he gave his defence statement on 24.01.2007. In his cross-examination the workman also stated that he did not remember the date of the leave applications and cannot tell the date on which he placed on record the leave application. He never intimated the HR Department, any written communication that due to illness he cannot attend duty. He further admitted that it is correct that one month notice pay was paid to him along with dismissal order and he had filed the civil suit against his dismissal and the said suit was dismissed on 06.01.2012 and he had filed the appeal which was withdrawn on 26.10.2012. In the light of discussion made above and admission of the workman during the cross-examination conducted before this Court, it is proved on record that a fair & proper inquiry has been conducted by the management and full & fair opportunity was granted to the workman to defend his case. There is no illegality in the inquiry conducted against the workman.

16. Another arguments of the workman is that the punishment of termination of service awarded to him is harsh but this argument does inspire the confidence as admittedly there are charges against the workman for unauthorized absence and as per standing orders applicable to the workman, unauthorized absence and habitual absenteeism are serious acts of misconduct and the charges against the workman were duly proved in the departmental inquiry. In this regard, reliance is placed on citation **Shakuntla Devi Versus M/s Dynamic Fashion Private Limited & Others, 2019 LLR 616 (P&H)** wherein the petitioner was disobedient and habitual of remaining unauthorisedly absent. She was issued charge sheet and inquiry was conducted wherein she was held guilty of charges. She was issued show cause notice but she did not file reply. It was held by the Hon'ble Punjab & Haryana High Court that the petitioner did not point out any illegality with the impugned award and it was not her case that evidence on record has been wrongly appreciated. Disobedience and habitual of remaining unauthorisedly absent is a grave and serious misconduct causing indiscipline at the work place. Punishment of termination is justified and not disproportionate. In the present case in hand, the workman is also habitual of remaining unauthorised absent so the punishment of termination is not harsh.

17. Next arguments of learned representative for the workman is that the Inquiry Officer appointed by the management was an Advocate but this argument also does not inspire confidence as there is no bar for the Lawyer to conduct inquiry on behalf of the management. The law is settled in citation **E. R. Sankaran Versus Mettur Government Servants Co-operative Stores Limited, 2001(1) CLR 716 (Madras) (DB)** in which it is clearly held that in the absence of any special individual bias, no fault can be found with the appointment of a lawyer as an Inquiry Officer in a domestic inquiry. Further in citation **Indian Express Employees Union Versus Management of Indian Express Newspaper, 1998(3) SCT 606 (P&H)** in which it is held that unless an apparent prejudice is caused to the workman on account of not following the procedure or not providing an adequate opportunity, inquiry proceedings cannot be held vitiated on the appointment of an Advocate by the management for holding inquiry against the workman. In the present case in hand, firstly throughout the inquiry proceedings no objection was raised by the workman with regard to the appointment of Advocate as an Inquiry Officer. Secondly, the workman has failed to prove on record before this Court that the Inquiry Officer is a biased or any prejudice has been caused to him on account of not following the procedure or by not providing adequate opportunity to the workman.

18. Argument of learned representative for the workman that all the inquiry proceedings were held in English, to which the workman was not well conversant, also does not inspire confidence as during the inquiry proceedings the workman never moved any application for conducting the inquiry proceedings in Hindi or any

other language conversant to him. Further perusal of the inquiry file reveals that during the inquiry proceedings the workman himself communicating in English.

19. In the light of discussion made above, the workman has failed to prove that a fair & proper inquiry was not conducted by the management and no full & fair opportunity was granted before dismissing him from service so there is no illegality in the termination order passed by the management. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

20. In the light of findings on the issue No.2 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 22nd February, 2021.

(Sd.). . . ,
(ANSHUL BERRY),
Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 9th April, 2021

No. 13/1/9765-HII(2)-2021/4060-A.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 70/2014, dated 22.02.2021 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

MONU SHARMA, S/O SHRI ASHOK SHARMA, R/O HOUSE NO. 3076-A, SECTOR 29-D, CHANDIGARH (Workman)

AND

THE TRIBUNE TRUST THROUGH ITS GENERAL MANAGER, SECTOR 29-C, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter called 'ID Act'*).

2. Case of the workman in brief is that he was working in the management since 2004 and after completion of 1500 days / 5 years of his service as daily wage employee, he was offered appointment of contractual employee on contract initially for three years and accordingly, on 31.07.2009 appointment letter was issued to him as Daftari with the organization. He had been performing his duties with sincerity and dedication. He never indulged himself in any kind of anti-management activities but because of change of in the hierarchy / top level management, a man namely Shri Sanjay Hazare was appointed as General Manager who bent upon breaking the long established tradition of the Tribune Trust by adopting unfair trade practice and discriminatory choose policy, which is the result of termination of the workman without giving any opportunity of being heard. As per the earlier practice, inquiries were conducted by the official of the Tribune Trust as per standing orders approved by the union as well as management but the then new appointed General Manager with *mala fide* intentions appointed various lawyers to conduct unfair inquiries and when the workman demanded

that he may also be allowed services of lawyer / advocate, the same was denied by the management. The appointment of an Advocate for conducting departmental inquiries is a clear cut violations of the standing order of the Tribune Trust as well as statutory laws framed time to time by the legislatures. Due to anarchism and dictatorship of the then General Manager, none of any employee was ready to become co-worker in the departmental inquiry as the management on earlier occasion, had suspended an office bearer of the union Shri Sandeep Sharma - Joint Secretary of the Tribune Employee Union, who stood as co-worker in one of the such inquiry. The General Manager had passed the dismissal order of the workman dated 07.06.2012 on the basis of inquiries, which clearly establish that the workman had not given any opportunity to defend himself and was not allowed to cross-examine the witness of the management. The entire inquiry had been conducted in clear violation of standing order and against the principles of natural justice. The workman was also not granted opportunity to examine his own witnesses in his defence. The workman is a middle class passed and does not know the English language in an fluent manner and all the correspondence and inquiry regarding the charge sheets were deliberately written in English language by the management, which is well known fact that the workman alien to the language so the charge sheet leveled and other legal facts were not clear to him. The documents relied upon by the management witnesses were not made available to the workman and even one of the witness of the management inspite of the repeated request for cross-examination not allowed to be cross-examined. The Presiding Officer even did not allow the workman to adduce his evidence in defence on the pretext that he is drunkard and on two occasions closed the defence evidence without giving any further opportunity. He had filed objection to the inquiry report in detailed. Shri Vinay Verma - DGM (Marketing) remained on unauthorised absent from the duties more than one year without any reasons and since he is in hierarchy of the management had been rewarded with eight increments and two promotions. Further he was also given incentives of more than ₹ 2.00 lacs which is a discriminatory and unfounded anarchism of the management. The charge of habitual absenteeism is wrong against the workman and penalty imposed of termination of services is like a capital punishment given to a person who is only the bread winner of the family. The workman was neither been paid salary nor has been given any benefit of services for the alleged absence from the duty and now had been dismissed from service on the ground of said absence as such he had been punished twice for a single offence, which amounts to double jeopardy. The workman never remained absent from duty as and when he had not reported to duty, he had forwarded prior leave applications from time to time. There are some cuttings on those leave applications, earlier the same were granted and later on the same were rejected without pay. The leave applications were forwarded with prior intimation to the concerned Head of the department thereafter the same were forwarded to the management in hierarchy. The management has adopted pick & choose policy while passing such harsh orders of the termination. There are so many examples which is very well in the knowledge of the management regarding giving benefits to even those employees, who also falls in the same class and categories and remained many a times absent from duties. Due to discriminatory anarchism of the General Manager Shri Sanjay Hazari, the union had submitted various complaints against the said Manager under Section 25-U and 34 of the ID Act. The Additional Deputy Commissioner, Union Territory Chandigarh has taken cognizance and conducted the inquiry and recommended for prosecution of Shri Sanjay Hazari - General Manager of the Tribune Trust. Due to pressure of the union and cognizance taken by the Additional Deputy Commissioner, Shri Sanjay Hazari resigned from the services. The management filed application under Section 33-C(2) of the ID Act for confirmation of the termination order and the said applications No.336 and 337 of 2012 are pending. Ultimately, it is prayed that termination order dated 07.06.2012 be set aside and the workman be reinstated with full back wages and all service benefits along with interest from the date of his termination till its realization.

3. The management contested the case of the workman and filed written statement that the workman was appointed as Daftri *vide* appointment letter dated 31.07.2009 on contract basis. The workman was given full opportunity by holding a fair & proper inquiry into the charges leveled against him before terminating his services. There was no violation of the standing orders of the management as well as statutory laws framed from time to time. Shri Sandeep was suspended as he had indulged in serious acts of misconduct by misbehaving with the Inquiry Officer for which he apologized and was reinstated. The action of the management in terminating the services of the workman *vide* order dated 07.06.2012 is legal, just, proper and in accordance with law.

The workman during the course of inquiry proceedings had got himself examined and thereafter he made a categorical statement that he did not want to produce any more witness and closed his evidence. The workman had never made any request either at the time of issuance of charge sheets or during the course of inquiry proceedings that the inquiry proceedings be held in Hindi language. Even the cross-examination of the management witness was done in English language and the questionnaire filed by the workman was in English language. The workman had himself admitted twice and given in writing that he had consumed liquor before coming to the inquiry proceedings and tendered his apology before the Inquiry Officer. Action of the management in terminating the services of the workman is legal, just, proper and in accordance with the law. The charges leveled against the workman were fully proved during the course of inquiry proceedings and he was given full opportunity to prove his innocence before passing the final order of termination. The union had made complaints against the then General Manager Shri Sanjay Hazari but the same were subsequently withdrawn by the union. Other averments of the case of the workman were denied and ultimately, it is prayed that claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman examined Shri Arun Kumar - Clerk, Office of the Assistant Labour Commissioner, Union Territory, Chandigarh as AW1. The workman also examined himself as AW2 and closed the evidence. On the other hand, the management examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1. Learned representative for the management closed the evidence.

6. I have heard the learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

Issue No. 1 :

7. Onus to prove this issue was on the workman and to discharge the same, the workman examined Shri Arun Kumar - Clerk, office of the Assistant Labour Commissioner, Union Territory, Chandigarh as AW1, who deposed that he had brought the summoned record pertaining to the complaint under Section 25-U read with Section 34 of the ID Act regarding unfair labour practice against Shri Sanjay Hazari - General Manager of the Tribune Trust. He proved the attested copy of the same is Exhibit 'AW1/1'. He further proved attested copy of the inquiry report submitted by the Additional Deputy Commissioner, Union Territory, Chandigarh as Exhibit 'AW1/2'.

8. The workman also stepped into the witness box as AW2 and deposed that he was illegally terminated from service on 07.06.2012 and thereafter he approached the Assistant Labour Commissioner, Union Territory, Chandigarh and filed a demand notice. Upon the said demand notice, no settlement was taken place as such *vide* letter dated 23.04.2014 Exhibit 'A1' the office of Assistant Labour Commissioner-cum-Conciliation Officer, Union Territory, Chandigarh directed himself to straightway file claim statement as per amendment in Section 2-A of the ID Act. He also deposed that he was working in the management since 2004 and after completion of 1500 days / 5 years of service he was offered appointment of contractual employee on contract initially for three years and accordingly on 31.07.2009 appointment letter was issued as Daftri. He never indulged himself in any kind of anti-management activities as change in hierarchy/top level management, a man namely Shri Sanjay Hazare was appointed as General Manager, who bent upon breaking the long established tradition of the Tribune Trust by adopting unfair trade practice and discriminatory choose policy, which is the result of termination of himself without giving any opportunity of being heard. He further deposed that as per earlier practice inquiries were conducted by the officials of the Tribune Trust as per standing order approved by the union as well as management but the then new appointed General Manager with *mala fide* intention appointed various lawyers to conduct unfair inquiries and when he demanded the service of lawyer / Advocate the same were denied by the management. The appointment of an Advocate for conducting departmental

inquiries is a clear cut violations of the standing order of the Tribune Trust as well as statutory laws framed from time to time. He also deposed that due to anarchism and dictatorship of the then General Manager, none of any employee was ready to become co-worker in the department inquiry as the management on an earlier occasion had suspended an officer bearer of the Union namely Shri Sandeep Sharma - Joint Secretary of the Tribune Employee Union, who stood as co-worker in one of the such inquiry. He further deposed that the General Manager had passed dismissal order dated 07.06.2012 on the basis of inquiries which clearly established that he was not given any opportunity to defend his inquiry and the same was decided inspite of the facts that objections were filed for not to allow to cross-examine the witness of the management. The management had rejected all the explanations, objections and appeals of himself and entire inquiry was conducted in clear violation of standing order and against the principles of natural justice. He was also not granted opportunity to examine his own witnesses in his defence. He further deposed that he is middle class passed and do not know the English language in fluent manner and all the correspondence and inquiry regarding the charge sheets are in English which were deliberately written in English language, knowing the fact that he alien to language so the charges leveled and other legal facts were not clear to him during the inquiry. The documents relied upon by the management were not made available to him and even of the witness of the management inspite of repeated request for cross-examination not allowed to be cross-examined. The Presiding Officer even did not allow him to adduce his evidence in defence on the pretext that he is drunkard and on two occasions closed the defence evidence without giving any further opportunity. On 16.05.2012 he had filed objection to the inquiry report in detailed. He further deposed that Shri Vinay Verma - DGM (Marketing) remained unauthorised absent from the duties for more than one year without any reasons and since he is in hierarchy of the management has been rewarded with 8 increments and 2 promotions. He was neither paid salary nor given any benefit of service for alleged absence from duty and now had been terminated from the service on the ground of the said absence as such he has been punished twice for a single offence which amounts to double jeopardy. He never remained absent from duty as and when he has not reported to duty, he has forwarded his leave applications from time to time. There are some cuttings on those leave applications, earlier the same were granted and later on the same were rejected without pay. He further deposed that the management had adopted pick and choose policy while passing such harsh orders of termination. There were so many examples giving benefits to even those employees who also falls in the same class and categories and remained many a times absent from duties. Due to discriminatory anarchism of the General Manager Shri Sanjay Hazari, the union had submitted various complaints against the General Manager under Section 25-U and Section 34 of the ID Act for unfair trade practice and due to pressure of the union and cognizance taken by the Additional Deputy Commissioner, resigned from the services. The management had filed application under Section 33-C(2) of the ID Act for confirmation of termination order and the same decided in favour of the management. There is a clear cut discrimination on the part of the management by holding a bogus inquiry that too through an Advocate who was outsider and he was not allowed to contest the inquiry properly.

9. Learned representative for the workman has argued that the services of the workman were terminated illegally by the management as the alleged inquiry has not been conducted as per the standing orders. The workman was never informed by the Inquiry Officer about his right to engage his co-worker to defend the case. No body was ready to become co-worker during the domestic inquiry due to the fear in mind of victimization and harassment by the management. He further argued that the Inquiry Officer should have been appointed employee of the Tribune Trust and not an Advocate. All the correspondence were made in English and the workman was not conversant with the same. No effective opportunity was given to the workman during the inquiry proceedings and the Inquiry Officer did not consider the medical record hence the inquiry has been conducted against the principles of natural justice and the services of the workman has been terminated by the management with pre-determined and bias mind. The punishment of termination of service is harsh as the work & conduct of the workman remained satisfactory and he worked with utmost dedication and sincerity. Learned representative for the workman relied upon authority **Sec. to Govt. Information Pub. Rel. Dep. & Others Versus John Maria Jesudoss, 2015(1) Law Herald (SC) 236; Rajasthan Tourism Development Corporation Limited & Another Versus Jai Raj Singh Chauhan, 2011(13) SCC 541 (SC); R. L. Chhokar Versus State of Haryana, 2001(3) SCT 156 (P&H)(DB) and Harbans Singh**

Versus The Presiding Officer & Others, CWP No.11532 of 2013 (O&M) decided on 04.12.2014 by Hon'ble Punjab & Haryana High Court. He prayed for allowing of the present industrial dispute and reinstatement of the workman with continuity of service and full back wages.

10. On the other hand, learned representative for the management has examined Shri Harpreet Singh Bhatia - Deputy General Manager (HR) as MW1, who deposed that he is working as Deputy General Manager - HR in the office of The Tribune Trust at Chandigarh and is well conversant with the facts of the case. The workman was appointed as Daftri on contract for a period of three years. Copy of appointment / contract letter dated 31.07.2009 Exhibit 'M2'. He was guilty of serious act of misconduct for which he was charge sheeted *vide* charge sheet dated 17.06.2011 for remaining unauthorised absent from duty for 87 ½ days during the period from August 2010 to December 2010 and 25 days during the period January 1, 2011 to May 26, 2011 and thereafter continuous absence from duty from May 29, 2011 onwards. He proved the copy of charge sheet Exhibit 'M3'. The workman submitted his reply on 14.07.2011 to the charge sheet Exhibit 'M4' and he asked for the complete record pertaining to the leaves / attendance as mentioned in the charge sheet and the same was provided to him and then submitted another reply to charge sheet Exhibit 'M5'. Even after the issuance of charge sheet dated 17.06.2011, the workman did not improve himself and was found unauthorisedly absent from duties for 64 ½ days from June 2011 to September 2011, another charge sheet dated 05.10.2011 was issued to him Exhibit 'M6'. The workman submitted his reply dated 22.10.2011 and asked for the complete record pertaining to the leaves / attendance and the same was provided to him on but he failed to submit explanation to the charge sheet. He proved receipt of requirement documents supplied Exhibit 'M7'. He further deposed that the domestic inquiry was ordered by the management *vide* order dated 14.11.2011 Exhibit 'M8' and Shri Bipan Sharma was appointed as an Inquiry Officer. After holding a fair & proper inquiry by providing full opportunity to the workman to defend the charges, the Inquiry Officer submitted his inquiry report dated 03.05.2012 holding that the charges stand proved against the workman. He further deposed that the workman was issued a memorandum dated 07.05.2012 *vide* which he was asked to submit his comments on inquiry and a complete copy of inquiry report was also supplied to the workman. The workman submitted his reply to the said memorandum twice. He proved the copy of memorandum Exhibit 'M9' and reply Exhibit 'M10' & 'M11'. Thereafter a show cause notice of proposed punishment was issued to the workman Exhibit 'M12'. The workman submitted his reply to the show cause notice Exhibit 'M13'. After considering the material on record termination letter along with cheques Exhibit 'M14' was issued in compliance of Section 33(2)(b) of the ID Act. He further deposed that two application bearing Nos. LCA/336/2012 and 337/2012 filed by the management under Section 33(2)(b) of the ID Act have already been decided / allowed by this Industrial Tribunal-cum-Labour Court holding the inquiry conducted by the Inquiry Officer as fair, proper and in accordance with the principles of natural justice *vide* order dated 26.03.2018.

11. Learned representative for the management has argued that the present reference is without any cause of action and not maintainable. The workman remained absent from duty from time to time from August 2010 to 26.05.2011, the total 112.5 days and thereafter continuous absence from duty from May 29, 2011 onwards. He remained absent from duty and have become habitual absentee, which is an act of misconduct under the standing orders. He was charge sheeted for the same and thereafter the workman submitted his reply to the charge sheet, which was found unsatisfactory. After issuance of charge sheet, the workman did not improve himself and remained on unauthorised absent from duties for 64 ½ days from June 2011 to September 2011 so another charge sheet was issued to him, to which he filed reply. He further argued that the workman attended inquiry proceedings and he was given full opportunities to defend the charges. The Inquiry Officer after holding a fair & proper inquiry submitted his inquiry report dated 03.05.2012 holding the charges stand proved against the workman. A copy of inquiry report was also supplied to the workman to which he submitted his reply. Thereafter the workman was issued cause notice of proposed punishment and the workman submitted his reply. After considering the material on record the services of the workman were terminated. He further argued that a fair & proper inquiry has been conducted and this Court has already while deciding

applications under Section 33(2)(b) of the ID Act has held that the inquiry conducted by the Inquiry Officer was fair, proper & in accordance with the principles of natural justice. Learned representative for the management relied upon authority **Shakuntla Devi Versus M/s Dynamic Fashion Pvt. Ltd. & Others, 2019 LLR 616 (P&H)** and prayed for dismissal of the present industrial dispute.

12. After giving my careful consideration to the rival contentions of both the parties, admittedly, the workman was appointed as Daftri with Tribune Trust in the year 2009 on contract for a period of three years and there were charges against the workman that he remained absent from time to time for about 87 ½ days during the period from August 2010 to December 2010, 25 days during the period from January 2011 to May 2011, totaling 112 ½ days. Another charge sheet was issued to the workman for remaining absent from time to time for about 64 days during the period June 2011 to September 2011. The plea taken by the workman that nobody is ready to become co-worker with the fear of victimization and harassment does not hold good as the workman has failed to produce any evidence with regard to harassment and victimization against him.

13. As regard termination of the workman is concerned, after perusal of oral as well as documentary evidence on record it is crystal clear that the workman guilty of misconduct for which he was served with charge sheet on 17.06.2011 and 05.10.2011 for remaining absent from duty unauthorisedly. Shri Bipan Sharma - Advocate was appointed as Inquiry Officer, who issued notice to the workman to appear and the workman attended the inquiry proceedings. The charge sheet was read over to the workman and the workman was offered assistance of any co-worker but the workman submitted that he will disclose the name of his co-worker on the next date. List of documents and list of witnesses were supplied to the workman. Statement of witness of the management Shri Parveen Verma - Section Head (HR Section) was recorded but his cross-examination was deferred on the request of the workman. The workman submitted the questionnaire for cross-examination of the management and the cross-examination of the management's witness was conducted on the basis of that questionnaire by the workman. Statement of another witness of the management Shri Gulshan Sharda - Manager (Circulation - Sales) was recorded but his cross-examination as deferred on the request of the workman. Thereafter the workman did not cross-examine the witness despite opportunity and the Presenting Officer closed the evidence of the management. The workman gave his defence statement and closed his evidence. After conclusion of evidence of both the parties and after consideration of all the relevant record, the Inquiry Officer submitted his report dated 03.05.2012. Copy of the inquiry report was supplied to the workman for his comments. The workman submitted his reply, which was considered and found unsatisfactory. Then the disciplinary authority after applying his mind issued show cause notice dated 29.05.2012. The workman submitted his reply. After considering the whole record punishment of termination was awarded to the workman.

14. Moreover, after perusal of the cross-examination of AW1 it reveals that he himself admitted that it is correct that The Tribune Trust filed two cases LCA No.336/2012 and 337/2012 against him, which were decided on 26.03.2018 and the certified copy of order dated 26.03.2018 is Exhibit 'MX2/1' and 'MX2/2'. He stated that he had not challenged order dated 26.03.2018 passed in the above LCAs in any higher court. He further admitted that it is correct that in the dispute he is challenging the same inquiry which was already decided order dated 26.03.2018 in the above LCAs. Perusal of Exhibit 'MX2/1' and 'MX2/2' reveals that the management had already the applications under Section 33(2)(b) of the ID Act for approval of the action taken by them in terms order dated 07.06.2012 whereby the services of the workman were terminated on the basis of inquiry conducted on the charges mentioned in charge sheet dated 17.06.2011 and 05.10.2011, which are under challenged in the present industrial dispute. In the said applications a detailed orders have been passed by the then Presiding Officer holding that the inquiry was conducted in a fair & proper manner and the workman was given full opportunity to defend himself. In the light of discussion made above and admission of the workman during the cross-examination conducted before this Court, it is proved on record that a fair & proper inquiry has been conducted by the management and full & fair opportunity was granted to the workman to defend his case. There is no illegality in the inquiry conducted against the workman.

15. Another arguments of the workman is that the punishment of termination of service awarded to him is harsh but this argument does inspire the confidence as admittedly there are charges against the workman for unauthorized absence and as per standing orders applicable to the workman, unauthorized absence and habitual absenteeism are serious acts of misconduct and the charges against the workman were duly proved in the departmental inquiry. In citation **Shakuntla Devi Versus M/s Dynamic Fashion Private Limited & Others (supra)** wherein the petitioner was disobedient and habitual of remaining unauthorisedly absent, she was issued charge sheet and inquiry was conducted wherein she was held guilty of charges and she was issued show cause notice but she did not file reply, it was held by the Hon'ble Punjab & Haryana High Court that the petitioner did not point out any illegality with the impugned award and it was not her case that evidence on record has been wrongly appreciated. Disobedience and habitual of remaining unauthorisedly absent is a grave and serious misconduct causing indiscipline at the work place. Punishment of termination is justified and not disproportionate. In the present case in hand, the workman is also habitual of remaining unauthorised absent so the punishment of termination is not harsh.

16. Next arguments of learned representative for the workman is that the Inquiry Officer appointed by the management was an Advocate but this argument also does not inspire confidence as there is no bar for the Lawyer to conduct inquiry on behalf of the management. The law is settled in citation **E. R. Sankaran Versus Mettur Government Servants Co-operative Stores Limited, 2001(1) CLR 716 (Madras) (DB)** in which it is clearly held that in the absence of any special individual bias, no fault can be found with the appointment of a lawyer as an Inquiry Officer in a domestic inquiry. Further in citation **Indian Express Employees Union Versus Management of Indian Express Newspaper, 1998(3) SCT 606 (P&H)** in which it is held that unless an apparent prejudice is caused to the workman on account of not following the procedure or not providing an adequate opportunity, inquiry proceedings cannot be held vitiated on the appointment of an Advocate by the management for holding inquiry against the workman. In the present case in hand, firstly through out the inquiry proceedings no objection was raised by the workman with regard to the appointment of Advocate as an Inquiry Officer. Secondly, the workman has failed to prove on record before this Court that the Inquiry Officer is a biased or any prejudice has been caused to him on account of not following the procedure or by not providing adequate opportunity to the workman.

17. Argument of learned representative for the workman that all the inquiry proceedings were held in English, to which the workman was not well conversant, also does not inspire confidence as during the inquiry proceedings the workman never moved any application for conducting the inquiry proceedings in Hindi or any other language conversant to him. Further perusal of the inquiry file reveals that during the inquiry proceedings the workman himself communicating in English.

18. In the light of discussion made above, the workman has failed to prove that a fair & proper inquiry was not conducted by the management and no full & fair opportunity was granted to the workman before dismissing him from service so there is no illegality in the termination order passed by the management. Accordingly, this issue is decided against the workman and in favour of the management.

Relief :

19. In the light of findings on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 22nd February, 2021.

(Sd.). . .,

(ANSHUL BERRY)

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
TRANSPORT DEPARTMENT

Notification

The 20th April, 2021

No. 2/3/57-H-III(7)-2021/4375.—Whereas the Chandigarh Administration is satisfied that it is necessary to restrict the speed of motor vehicles within the Union Territory of Chandigarh in the interest of public safety, convenience and because of the nature of roads in the Union Territory, Chandigarh.

Now, therefore, in exercise of the powers conferred by Sub-Section (2) of section 112 of the Motor Vehicles Act, 1988 (59 of 1998), and in supersession of earlier notification issued by the Home Department, Chandigarh Administration *vide* No. 2/3/57-H-III(7)-2013/10191, dated 01.06.2013, the Administrator, Union Territory, Chandigarh, hereby fixes the maximum speed limit in respect of the class of motor vehicles specified in the corresponding entry in column (1) thereof for different categories of roads in the Union Territory, Chandigarh as specified in **columns (2), (3) and (4)** of the table below and authorizes the Engineering department concerned to have traffic signs placed or erected at suitable places in consultation with the Traffic Police as per the requirement of section 116 of the aforesaid Act :—

Class of Motor Vehicles	Maximum permissible speed (in Kilometers per hour)		
	Dual Carriageway Roads (Roads with dividers)	Single Carriageway Roads (Roads without dividers)	Sector Roads
1	2	3	4
Motor vehicles used for carriage of passengers comprising not more than eight seats in addition to the driver's seat (<i>Light Motor Vehicles</i>). (M1 Category Vehicles)	60	50	40
Motor Vehicles used for carriage of passengers comprising nine or more seats in addition to the driver's seat (<i>Medium and Heavy Passenger Vehicles</i>). (M2 & M3 Category Vehicles).	50	40	40
Motor vehicles used for carriage of goods (<i>Commercial Goods Vehicles</i>). (All N Category Vehicles)	50	40	40
Motor cycles (Two wheelers) / Three wheeled vehicles and Quadricycle	45	40	40

"Whereas, vehicles designated for emergency duties such as ambulance, fire-fighting, salvage purposes or a police vehicle in a case of utmost emergency shall be exempted.

Whereas, no Cognizance of the violation of the speed limits shall be taken under Section 183 of the Motor Vehicles Act, 1988, if the speed detected is within 5 percent maximum Speed specified in this notification".

- Note.**—(I) A dual carriageway is a road on which traffic travelling in opposite directions is separated by a divider.
- (II) A single carriageway is a road with one, two or more lanes with no divider to separate opposing flows of traffic.

MANDIP SINGH BRAR, IAS,
Secretary Transport,
Chandigarh Administration.

CHANGE OF NAME

I, Anil Kumar, S/o Sh. Amrit Lal Sharma, R/o H. No. 2929, Sector 37-C, Chandigarh, have changed my name to Anil Kumar Prashar.

[233—1]

I, Kenny, *alias* Karamvir Singh Chabba, S/o Sh. Kanwaljit Singh Chabba, resident of 603, Sector 33-B, Chandigarh, has change my name Kenny *alias* Karamvir Singh Chabba to Kenny Chabba. All noted.

[234—1]

I, Mala Singh *alias* Mala Rani, W/o Late Shiv Bahadur Singh, R/o # 2011/32, Sector 32-C, Chandigarh, henceforth be known as Mala Rani for all intents and purposes.

[235—1]

I, Deepa, D/o Babu Lal, # 2086A, Small Flats, Housing Board Complex, Dhanas, Chandigarh, have changed my name Deepa to Salma Nisha.

[236—1]

I, Arvinder Kaur, W/o Daljit Singh Saini, # 775, RCS Enclave, Sector 49-A, Chandigarh, changed my name Arvinder Kaur Saini.

[237—1]

I, Sanjay Lal, S/o Lakhi, R/o H. No. 1385, Village Burail, Chandigarh, have changed my name to Sanjay Singh Kohli.

[238—1]

I, Sunita, W/o Rajesh Kumar, R/o H. No. 1263/1, Sector 30-B, Chandigarh, changed my name to Sunita Devi.

[239—1]

I, Himanshu Verma, S/o Kanwar Ajay Verma, # 1191, Sector 8-C, Chandigarh, changed my name Himansh Verma

[240—1]

I, Anit Benwal, S/o Parkash Chand, # Jhuggi No. 106, Sector 25-D, Chandigarh, have changed my son name from Bhil Parkash to Bhil Parkash Benwal.

[241—1]

I, Rachna Sharma, D/o S. M. Khullar, House 4287-B, Top Floor, Sector 46-D, Chandigarh, have changed my name to Rachna Khullar.

[242—1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."